

REMARKS/ARGUMENTS

This application is a continuation-in-part of U.S. Serial No. 10/415,294 filed October 26, 2001 as PCT/CA01/01508. Like the earlier application, it is directed to agrochemical formulation aid compositions useful in tank mixes on site.

Applicant's invention is a specific selection invention which relates to agrochemical formulation aid compositions. These are distinct and different from the agrochemical compositions of the references in that Applicant is not formulating herbicidal compositions per se but is providing a formulation aid composition for in-tank preparation of bioactive and sprayable agrochemicals or mixtures of agrochemicals. The field of the references is related to, but not identical to, the field of Applicant's invention and Applicant has not been able to discern anything in any of the references which would establish a *prima facie* case of obviousness. There does not appear to be any suggestion or motivation to consider these references when faced with problems related to formulation aid compositions. There is no apparent reasonable expectation of success in formulation aid compositions that can be derived from the references separately or collectively. The references also do not teach or suggest every limitation of the rejected claims. We therefore respectfully request reconsideration and withdrawal of the rejection of the claims. For the record, we characterize the references below and contrast them with Applicant's claimed invention.

Agbaje is concerned with providing a stable three-herbicide composition stabilized with emulsifiers (see, for example, claim 3, and most of columns 14 and 15). The problem addressed by this patent is that of herbicidal composition stability. The solution provided is a "suspoemulsion having an aqueous phase, an oil phase and particles dispersed in the aqueous and/or oil phases" stabilized by one or more emulsifiers (see claim 1). The suspoemulsion appears, therefore, to have three phases.

Atwater provides a synergistic combination of an amide sulfuric acid adduct and a quaternary salt, preferably monocarbamide dihydrogen sulfate and diquat. The important feature appears to be the quality of synergism between two herbicides.

Roberts relates to a homogeneous (col. 2, line 2) agricultural liquid composition comprising a water-soluble agricultural chemical, tallow amine ethoxylates and phosphate esters. The problem addressed is water-solubility of agricultural chemicals at low pH.

It is difficult to predict the result of combining the suspoemulsion of Agbaje and the homogeneous composition of Roberts. It is respectfully submitted that the very different nature of the compositions of these two references would not motivate the person of ordinary skill to combine the references and, indeed, teaches away from combining the references. It is difficult to contemplate how to combine the teachings of these references and difficult to predict the outcome of trying to amend the Agbaje formulations with Roberts' formulations. Would the resulting compositions be a suspoemulsion of three phases, homogeneous (and containing a water-soluble agricultural chemical as taught by Roberts) or something completely different?

Combining Agbaje and Atwater could but not necessarily would lead to a specific combination akin to Agbaje but with the Atwater synergists in the composition. It is not clear as to whether or not this would be stable and whether or not it would be a three-phase suspoemulsion or something completely different.

Combining Atwater and Roberts suggests a synergistic combination of herbicides in a homogeneous agricultural liquid composition of Roberts.

As mentioned above, Applicant's invention is directed to an agrochemical formulation aid composition. There does not appear to be anything in any of the references taken separately or together which teaches, motivates or directs the person of ordinary skill even to consider making a formulation aid composition with or without monocarbamide dihydrogen sulphate (a fertilizer). Nothing in the references appears to teach, suggest or direct a person of ordinary skill to consider the particular proportions of the particular ingredients in a formulation aid composition. Withdrawal of the obviousness rejection is therefore respectfully requested.

No fee is believed due for this submission. However, Applicant authorizes the Commissioner to debit any required fee from Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP. The Commissioner is further authorized to debit any additional amount required, and to credit any overpayment to the above-noted deposit account.

Appl. No. 10/630,806
Amdt. dated July 31, 2003
Reply to Office Action of September 18, 2006

The Commissioner is hereby authorized to charge any additional fees, and credit any over payments to Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP.

Respectfully submitted,

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